

Minutes of the public hearing held on July 23, 2018 in the Conference Hall at the Florence Filberg Centre, 411 Anderton Avenue, Courtenay, BC commencing at 6:00 pm to consider Bylaw No. 543

PRESENT:

Directors:	R. Nichol	Lazo North (Electoral Area B)
	E. Grieve	Puntledge – Black Creek (Electoral Area C)
	B. Jolliffe	Baynes Sound – Denman/Hornby Islands (Electoral Area A)
Staff:	A. Mullaly	Acting General Manager of Planning and Development Services
	T. Trieu	Assistant Manager of Planning Services
	B. Chow	Rural Planner
	J. Martens	Manager of Legislative Services
	L. Dennis	Recording Secretary

Vice-Chair Grieve assumed the role of presiding member and called the public hearing to order at 6:00 pm and acknowledged that the meeting was being held on the unceded traditional territory of the K'ómoks First Nation. Chair Grieve read a prepared statement regarding the public hearing procedures. Approximately 150 members of the public were present for the public hearing.

**Bylaw No. 543, being the
“Comox Valley Zoning Bylaw 2005, Amendment No. 76”
(MacKenzie & Heynck)**

B. Chow, Planner, presented an overview of the application for Bylaw No. 543 being “Comox Valley Zoning Bylaw, 2005, Amendment No.76 to rezone the subject property from Rural Eight (RU-8) to Rural Eight – exception 8 (RU-8-8) to add “water and beverage bottling” as a permitted use.

The applicants, Christopher MacKenzie and Regula Heynck, were in attendance and presented information regarding Zoning Bylaw Amendment Application RZ 2C 18, specifically addressing the objections to the application as not relevant to the above-ground use that is proposed.

Director Nichol arrived at the public hearing at 6:17 pm.

Vice-Chair Grieve called for speakers from the speakers list.

Janice Isenor, 6391 Treherne Road – spoke in opposition to the proposed bylaw and referenced a previous zoning change that resulted in an increase in traffic during peak times that took many complaints to the CVRD bylaw enforcement to address, and fears that this rezoning application could be a front runner to more rezoning applications. Ms. Isenor inquired as to who would enforce the 10,000 litre a day water licence.

Tania Woodbeck, 1091 Francis Road – spoke in support of the proposed bylaw. Ms. Woodbeck lives very close to the subject property and draws her water from a shallow well. Ms. Woodbeck believes that she will not be negatively affected by the proposed land use after seeing the studies

done by the province, and looks forward to being able to drink the water from the ground beneath them.

Lisa Peters, 1574 Hillview Road – expressed concern regarding the precedent that will be set. Ms. Peters moved to Merville as a safe place to raise her kids, where it was quiet and she could have a hobby farm. Ms. Peters researched the permitted uses before purchasing the property and feels that if this zoning change is permitted, it could prompt more rezonings and change the way of life in the rural area. She stated that there is no community benefit to this proposed rezoning.

Bunky Hall, 7429 Roger Road – has a shallow well that is close to the proposed bottling site. He outlined that this well has been an excellent well for 45 years and has only run dry once when a group concerned with fish habitat in Portuguese Creek, drilled a well along the road. Mr. Hall's well was dry within two days. He expressed concern that the rationale presented by the province to justify the water licence referenced drilled wells, not shallow wells.

Gordon Robertson, 307-555 4th Street – noted that the presentation by the province regarding the water licence did not mention climate change and was only raised by questions afterwards. It was difficult to gauge the technical information that was presented and the precautionary approach to this rezoning application would argue against proceeding.

Bruce Gibbons, 2470 Sackville Road – noted that the public hearing is regarding a proposed rezoning, not the water licence. Mr. Gibbons chose to live in a rural area that is not infringed by development that is quiet and peaceful without heavy traffic. Mr. Gibbons would like to see the area remain as an agricultural area and that the amount of work put into the Official Community Plan and the Zoning Bylaw, and by the various committees, not be taken lightly. Merville has a great sense of community and what is happening is not in that spirit. He outlined that the application should be denied.

John Snyder, Fanny Bay – noted that the Area C Advisory Planning Commission and the Agricultural Advisory Planning Commission both recommended denial of this rezoning application, and that the statement from the K'ómoks First Nation in opposition to the water license was very compelling. Mr. Snyder urged Electoral Area A Director Jolliffe to vote against this rezoning application.

Kelly Broom., Comox – spoke in opposition to the proposed bylaw as the Sackville aquifer may need to be used as a backup for the Comox Valley water should it become undrinkable in the future due to rock snot which forms a potentially toxic bloom. She further expressed that it is premature to approve a water bottling project when we haven't defined what we will need for our drinking water.

Peggy Carswell, Merville – was a former electoral area director and made an effort to establish the electoral area advisory planning commission and feels that the commissions' recommendations should be taken seriously. Ms. Carswell stated her opposition to the proposed bylaw.

Gillian Anderson, 2561 Sackville Road – stated that there is no environmental or economic benefit to the community provided by the proposed bylaw. She also noted:

- that at 10,000 litres a day water licence, this is the equivalent of 500 water jugs.

- This will mean an increase in traffic and will violate community planning principles. Making decisions on perpetual water licences based on old data, does not make sense.
- Environmental factors, melting of glaciers that will never be regenerated, earlier spring run-off and hotter summers mean warmer temperatures, less precipitation and reduced snowfall.

Tom Wright, Courtenay – stated that what we say and feel affects water quality and that the proposed bylaw is not in the spirit of loving, blessing and thanking water. This issue should be remembered when it is time to vote on October 20.

Gary Sealey, Courtenay – has worked for Environment Canada and for forestry and has seen lowered wells, and drying river beds. He stated that water removal will exacerbate these things and that there is no public benefit now or in future. He encouraged the directors to be reasonable in their mandate and stated that he does not agree with the application.

Rick Schellinck, Merville – has been in the area for 27 years ago and has seen zoning changes. The community had meetings about commercial nodes, etc. but there was never talk about putting a commercial node in the middle of residential area. He expressed his opinion that this application flies in the face of RU-8 zoning. This property is not so special that it needs to be rezoned. There is probably some commercial land that can access this aquifer. Putting in wells is not an exact science, and the people with the shallow wells may be impacted, despite what the province says. Mr. Schellinck further stated is opposition to this rezoning application.

John Cousins, 7440 Roger Road – spoke in support of the proposed bylaw and noted that the current hearing is regarding allowing a water bottling facility on site, not the water licence. Although there is a lot of passion in the room, that is not relevant. He questioned whether we want the applicants to have a water bottling facility onsite or will they have to bottle the water elsewhere? He expressed that it is better to have smaller trucks accessing the property rather than using larger vehicles to ship the water out.

Wayne Bradley, 6929 Railway Avenue – spoke in opposition to the proposed bylaw. The regional district provides information on what uses are permitted on a property, so the applicants knew this use was not permitted. There is no obligation to grant a rezoning based on someone's good idea. He stated that the regional district needs to stand by its bylaws.

Eduardo Uranga, Cumberland – stated that there is no business case to be made in the Comox Valley for selling this amount of bottled water, and this may just be paving the way for a larger company to come in. Mr. Uranga urged the directors to not take the first step to letting a larger operation in the door. He further stated that water is precious everywhere in the world.

John Milne, Comox – spoke in opposition to the proposal and stated that if the bylaw is approved, it will allow a long list of other uses that could be implemented in the future if the applicant sells the property. This is a residential neighbourhood and light industrial uses do not belong here.

Staff clarified the permitted and proposed uses for RU-8 and proposed site specific use.

June Farquhar, Merville –spoke in opposition to the proposed bylaw. They have lived in the area for 40 years and have valued the rural setting. Now that they are retired, they will be more likely to notice an increase in traffic and noise. A proposed access road to the bottling building will cause a dangerous situation on a busy road and would expose the adjacent neighbour to increased noise. In addition, Ms. Farquhar is worried about the loss of their own water and feels that the provincial presentation on the water licence did not seem to indicate knowledge of wells that exist within 150 metres of the proposed well. Ms. Farquhar expressed concern about the transferability of the water licence, the amount of water that will be required for prepping and cleaning water bottles and the draining of potential chemicals used for bottle sterilization.

Fred Muzin, Courtenay – stated that global warming shows that you can't use the past to predict what the future will be. If we use public resources for personal profit, there is no benefit to anyone but the applicant. He stated that privatization is wrong.

Gloria Cashman, 2444 Sackville Road – has lived in the area since the 1970s and has seen a lot of development. The increase in traffic from the proposed application will affect them more than others. Ms. Cashman is in opposition to the proposed bylaw and questioned what impact this would have on taxes, and why the water could not be used for fire services in the area. Ms. Cashman does not want to move to the city to get away from this kind of activity.

Nicole Poirier, 2470 Sackville – spoke in opposition to the proposed bylaw. She outlined that K'ómoks First Nation spoke out against it and called it unlawful, and that the Area C APC and the Agricultural Advisory Committee both recommended denial of this application. She expressed concern that no pump testing was done to determine if wells in the area are affected and that the province did not seem to know what wells were in the area. Who knows how climate change will affect the aquifer. How can water be site specific? The province and the CVRD seem to be claiming conflicting uses on the property.

Janet Fairbanks, 6929 Railway Avenue – spoke in opposition to the proposed bylaw, in particular because the K'ómoks First Nation was opposed. Ms. Fairbanks also outlined her disagreement with the “no applause” rule at CVRD public hearings.

Tammi Whelan, 1198 Lazo – spoke in opposition the proposed bylaw. She expressed that water is a finite resource, and the sale of this resource is repugnant. Water should be prioritized for food production and for the use of the residents.

Jason Hall, 7429 Roger Road – lives next door to the subject property and lives off a shallow well. They have seen the effects of water removed from the aquifer and the wells dry up. He expressed concern that there haven't been tests. He also stated that it is going to change the way we live and our values and that we work hard to pay to live that way. We don't want water taken away and have someone profit from a resource that is for everyone.

Mark de Bruijn, 1811 Fern Road – stated that it is difficult to separate the two issues of the water licence and the land use, but that the two should not be divorced. It is incumbent on the directors to see the bigger picture. Aquifers are in trouble all over the world and overuse of water is an issue. We

cannot live in a cocoon, we must see that water is owned by all of us. Mr. de Bruijn urged the directors to give the proposed bylaw serious consideration.

Larry Myhres, 1574 Hilltree Road – spoke of his concern regarding property values being adversely affected.

Marilyn Hannah, Comox – spoke regarding attending a water forum 16 years ago at which the importance of water was discussed. Putting water up for sale can mean that people can lose their right to water. Ms. Hannah explained that she grew up in a time where there were no water bottles. There may in the future be wars fought over water. Ms. Hannah stated that she is not in favour of the proposed bylaw and will boycott bottled water.

Johanne Roy, Courtenay - is a new resident on Bishop Road and already feels a part of the community. Ms. Roy worked in public health, so is used to considering the public good, and makes an effort to conserve water. She outlined that water is a delicate resource and needs to be protected for future users. It is less expensive to prevent a problem than to fix something in the future.

Mark Smith, 8052 Harmony Crescent – spoke in opposition to the proposed bylaw. Mr. Smith attended the provincial public meeting regarding the water licence and considered it “a bunch of spinning” and vague assertions. This proposal may have unknown effects on the water table. The directors should think globally and act locally.

Ian Holm, 858 Hagen Road – spoke in opposition to the proposed bylaw and believes that water is a natural resource that should not be privatized. He outlined that people in Merville love the area and expect to live a certain lifestyle, and this proposal will cause a rift in the community.

Chair Grieve called for any second time speakers or other first time speakers and reminded the public that any written submissions regarding the proposed bylaw must be brought forward before the close of the public hearing.

Gordon Robertson, 307-555 4th Street – noted that since there was no mention of climate change at the provincial government open house, directors should proceed with caution on this application, in so far as their mandate allows them.

Gary Sealey, Courtenay – stated that the proposed permitted uses on the subject property seem to be inconsistent with semi-rural nature of this area and requested that the directors oppose the proposed bylaw based on land-use issues.

Gillian Anderson, 2561 Sackville Road – stated that the ministry decision to grant the water licence was made without meaningful consideration of the effect of continuing withdrawals on Portuguese Creek and other wetlands in the valley. She expressed concern that wildlife will be negatively affected as traffic volumes increase and approval may set a precedent for future applications; although a spokesman for the ministry stated that this water licence would not set a precedent. Changing NAFTA rules and trade agreements may have an effect on the commodification of water. She stated that this is a critical decision.

Eduardo Uranga, Cumberland – stated that the directors have an obligation to do what the electorate want them to do.

Tom Wright, Courtenay – inquired as to whether the current zoning allowed aquaculture and requested that the directors vote against the proposed bylaw and that the current bylaw be reviewed as it is out of date.

Staff confirmed that the current zoning permits aquaculture.

Lisa Peters, 1574 Hillview Road – asked whether the directors had visited the subject property to this site to get a sense of how close the facility would be to an adjacent house. An industrial building in a residential neighbourhood is not what neighbours want or expected; it's not fair to neighbours.

Janet Fairbanks, 6929 Railway Avenue – stated that the water licence and the rezoning are two separate issues and there are lots of good reasons being presented for why the rezoning application should be denied. Ms. Fairbanks urged everyone to write a strong letter to the province to amend the Water Sustainability Act.

Bruce Gibbons, 2470 Sackville Road – noted that a petition had been submitted in opposition to the proposed bylaw.

Arzeena Hamir, 2641 Kirby Road – spoke as a farmer and as president of the Mid-Island Farmer's Institute and stated that when we see what is going on in the world, we may need to produce more of our food locally. Summers are drier and we have to irrigate. She outlined that her farm captures rainfall and uses that for irrigation. They use the aquifer for washing vegetables but they regard it as a scarce resource. She detailed their use of water for growing vegetables and that if they have to increase production, there is going to be a higher demand on the aquifer. She stated that food production should take precedent over water bottling.

Norma Janes, 6066 Aldergrove Drive – stated her opposition to the proposed bylaw for the many reasons that were outlined by previous speakers.

Grant Gordon, Piercy Road – stated that at the provincial meeting regarding the water licence, residents had noted that wells had run dry in those instances that water was pumped out of Portuguese Creek. Not everyone can afford to drill a well, so they are living off the surface water. If a well is not placed properly and not properly cemented, it can affect other wells. He stated that for these reasons the application is not appropriate for this area.

Tammi Whelan, 1198 Lazo – inquired as to how the application had got to this point.

CVRD staff confirmed the steps that had been taken on this rezoning application to the present public hearing.

Gary Sealey, Courtenay - asked what will happen now and what other recourse will the public have regarding this proposed land use?

CVRD staff outlined some possible next steps for the proposed bylaw and confirmed that this public hearing would be the final opportunity for public input.

Eduardo Uranga, Cumberland – contrasted the amount of water that was stated to be used by a local farmer, with the amount of water to be extracted from the subject property and estimated that the water extraction was about four times the amount and is an infringement on the rights of others to grow food.

Arzeena Hamir, 2641 Kirby Road – inquired in regards to a previously submitted document in which she was mentioned and disputed the claims that were made in that document.

CVRD staff confirmed that the document in question was part of the public record but had been redacted for personal and identifying information.

John Higginbotham – stated that there are two aspects to this application – water as a resource and the land use proposed by the bylaw. He outlined that we have to find a compromise between the environment and the pursuit of profit, we cannot live without a healthy environment. Mr. Higginbotham stated his opposition to the proposed bylaw.

Christopher MacKenzie, proponent – stated that three independent bodies had studied the water licence application and had come to the same conclusion – that there was plenty of water and it will not affect neighbouring wells. The water licence will never be increased, a large operation like Nestle would never be interested in a small water allotment. The revenue from the water is based on the service provided. The water at this location shows a unique composition of minerals and electrolytes at this specific site, providing a high quality natural filtered water from a local source, reducing fossil fuels needed to produce, package, distribute and store when compared to similar retail products.

Chair Grieve called for a third and final time for speakers and asked that all written submissions be brought forward.

Submissions received at the public hearing are attached as Appendix A. Submissions received prior to the public hearing are attached to these minutes as Appendix B.

Hearing no further speakers, the Chair declared the public hearing terminated for Bylaw No. 543 being the “Comox Valley Zoning Bylaw 2005, Amendment No. 76” (MacKenzie & Heynck).

Time: 8:02 pm

Recorded by:

Confirmed:

Confirmed:

L. Dennis
Recording Secretary

A. Mullaly
Manager of Planning
Services

Director Grieve
Vice-Chair

Attach: Appendix A – Written submissions received at the public hearing
 Appendix B – Written submissions received prior to the public hearing